IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

R.S.A. No. 2455 of 2005

Date of decision: 29.09.2006

**The Secretary U.H.B.V.N. Limited and others**

**..... Appellants.**

**Versus**

**Smt. Ishwanti and others**

**..... Respondents**

**CORAM: HON'BLE MR. JUSTICE P.S. PATWALIA**

Present:- Mr. Ram Chander, Advocate
for the appellants.

**P.S. PATWALIA, J. (ORAL)**

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This regular second appeal has been filed by the defendants against the orders made by the trial Court. The grievance of the appellants is very limited. The learned counsel for the appellants has drawn my attention to para No.11 of the judgment of the trial court and pointed out that it has been repeatedly recorded by the trial Court that the payment of DCRG and gratuity amount was not made till 09.06.1998 and it is only on that date that the payment was made. Therefore, the trial court has granted interest from 01.10.1997 to 09.06.1998 as is clear from the reading of para No.11 of the judgment of the lower court.

Further it has been pointed out that in para No.13 of the judgment of the trial court, there the date of final payment has been recorded as 30.06.98 whereas it should be 09.06.1998. On this basis interest has been allowed up to 30.06.1998. This judgment has been affirmed by the lower appellate Court.

Learned counsel for the appellants contends that in fact it is a typographical error. Since the trial court had itself while discussing the issue and recording conclusion in para no. 11 repeatedly stated that the entire amount was paid by 09.06.1998, which according to the counsel is also correct, there is no occasion to burden the appellant for interest beyond 09.06.1998, I notice from the reading of the order dated 14.07.2005 made by this Court in this regular second appeal that after noticing the aforesaid contention, notice of motion had been issued to the respondents. The respondents are the legal heirs of the plaintiff, who has since died. Despite number of opportunities and adjournments, they have not been served as the appellants are not in a position to ascertain their complete address.

In view of the peculiar facts of this case, I am of the opinion that it would be an unnecessary burden on the respondents if they have to appear and engage a counsel. I am satisfied that interest was to be awarded only up to the date when the payment was actually made i.e. 09.06.1998. It is also clear that it is a typographical error in para No.13 of the judgment where the date has been recorded as 30.06.1998. The difference is only of 21 days. I accordingly clarify the judgment of the trial court and lower appellate court to the extent that the interest shall be payable by the appellant as ordered by the courts below up to 09.06.1998 when the total payment was actually made to the plaintiff.

It is however clarified that it shall be open to the legal heirs to make an application for clarification or modification of this order in case any such occasion arises.

The regular second appeal is disposed of as above.

September 29, 2006 **( P.S. PATWALIA )**
**dinesh** **JUDGE**